



## **PRESENTATION TO THE HOUSE STUDY COMMITTEE ON REAL PROPERTY TAXATION**

At the initial meeting of the House Study Committee on Real Property Taxation, the Chairman requested that ACCG provide the Committee with information on several topics for purposes of the Committee's October 23, 2018 meeting. More specifically, ACCG was asked to provide general information on the significance of the ad valorem property taxation system to counties, as well as details on structural components of the tax assessment system – particularly the appointment and removal rules for members of county Boards of Tax Assessors and Boards of Equalization.

### **1. Counties and Real Property Taxation Generally**

For local governments as a whole (counties, cities, and school districts), property tax is, by far, the largest single source of revenue. For FY2014, property taxes accounted for 66% of total revenues for local governments in Georgia.<sup>1</sup> This figure appears to be relatively consistent, with 2016 data from the U.S. Census Bureau placing that figure at 67% for Georgia local governments.<sup>2</sup> As a result, any changes to the property tax system may have major implications for local governments and their ability to provide mandated and essential services to their citizens. This is particularly true because local governments in Georgia have no authority to create or impose new taxes unless authorized by the General Assembly via state law.

### **2. Boards of Tax Assessors**

#### **A. Appointment and Qualifications**

State law<sup>3</sup> establishes for each county in the state a Board of Tax Assessors ("BTA"), to be comprised of three to five members appointed by the county board of commissioners (or sole commissioner, in the eight counties with that form of government). A separate state statute gives

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<sup>1</sup> A Summary of Major State and Local Government Taxes, 23<sup>rd</sup> Ed., Ga. State Univ./Andrew Young School Fiscal Research Center (Jan. 2017). Sales taxes provide most of the remaining revenues for local governments.

<sup>2</sup> Data retrieved from <https://www.census.gov/data/datasets/2016/econ/local/public-use-datasets.html>.

<sup>3</sup> The state laws discussed above begin at O.C.G.A. § 48-8-290.

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counties the discretion to create an *elected* board of assessors; it appears that this different structure only exists in Lowndes County at present. BTAs are tasked with assessing for taxation purposes the vast majority of real and personal property within their respective counties. This basic BTA structure has been in place since 1913, and appears to have been structured to provide separation between the tax assessment process and the governments that ultimately receive tax revenues that depend on that assessment process.

Following appointment and each two years thereafter, BTA members are required to complete at least 40 hours of appraisal/assessment training courses, as approved by the Department of Revenue (“DOR”). A BTA member’s failure to meet these training requirements makes him or her ineligible for reappointment. BTA members serve staggered terms of between 3 and 6 years, as set by the county governing authority.

**B. Removal**

The county governing authority has limited power to remove BTA members once appointed. Such removal is permitted “only for cause shown for the failure to perform the duties or requirements or meet the qualifications imposed upon such member by law....” A “failure to perform duties” includes a finding by the governing authority “that the member of the county board of tax assessors has shown a pattern of decisions in his or her capacity as such member that has provided substantially incorrect assessments or substantially inconsistent tax assessments between similar properties.” If the employees of the BTA are subject to the county’s civil service system, failure of the BTA to comply with civil service system rules is also grounds for removal.

There are several different procedural paths that may lead to removal of BTA members:

- The county governing authority may determine that “cause” for removal, as described above, exists. However, the BTA member cannot be removed until he or she has been given an opportunity for a hearing before a superior court judge in that county. Following such a hearing, the judge may make recommendations to the county governing authority regarding removal of the BTA member.
- The county governing authority may request the DOR Commissioner to appoint a Performance Review Board (comprised of a DOR employee and two chief appraisers from other counties) to conduct an investigation of the BTA “regarding the technical competency of appraisal techniques and compliance with state law and regulations, including the Property Tax Appraisal Manual.” The Performance Review Board issues a report of its findings, along with any recommendations it deems appropriate; those findings may be grounds for removal of one or more BTA members by the county governing authority. Again, such removal cannot occur until the member(s) have been given the opportunity for a hearing in superior court as described above.

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- At least 100 “freeholders” (property owners in the county) may file a court petition seeking removal of a BTA member on the grounds that he or she is not qualified or “is not properly and impartially discharging his duties or is discriminating in favor of certain citizens or classes of citizens and against others...” Both the freeholders and BTA member are given a hearing on the issues, after which the judge either dismisses the petition (finding that removal is not proper) or removes the BTA member from office. In this particular setting, no action by the county governing authority is required for the removal to be effective.

### **3. Boards of Equalization**

#### **A. Appointment and Qualifications**

Boards of Equalization (“BOEs”) were added to state law in 1972. Current law establishes a BOE in each county, comprised of three members and three alternate members who serve staggered three-year terms. BOEs are tasked with hearing and determining property owner appeals of tax assessments by the BTA (as well as appeals of BTA denials of homestead exemptions). If a county has more than 10,000 parcels of real property, the county governing authority is authorized to create one additional BOE for each 10,000 parcels. For example, a county with 100,000 parcels could have up to 10 BOEs. Additionally, two or more counties may create by intergovernmental agreement a regional BOE.

Owners of real property in the county may apply to become BOE members. Applications are made to the Clerk of Superior Court, but appointments of BOE members and alternates are made by the grand jury. DOR regulations include training requirements for BOE members, including 40 hours of training in their first year and at least 8 hours in subsequent years.

#### **B. Removal**

As with appointments, removal of BOE members falls within the power of the grand jury. Complaints about any BOE member may be filed with the Clerk of Superior Court and then forwarded to the grand jury for investigation. The grand jury issues a written report and has the authority to remove the BOE member from office, based on the report’s findings, for his or her failure to perform the duties of BOE members.